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REMARKS

Reconsideration and further examination is respectfully requested.

Objections to the Drawings:

Figures 1A and 1B were objected to as failing to include a Prior Art legend. Applicants have attached hereto a proposed drawing correction for Figures 1A and 1B, which now include the legend. Approval of these figures is respectfully requested.

Objections to the Specification

The disclosure was objected to for various informalities. Applicants have amended the disclosure to correct the informalities noted by the Examiner, and thus it is requested that the objection be withdrawn. The Examiner is thanked for the careful review of the specification.

Objections to the Claims

Claims 1-5 were objected to for various informalities, including lack of antecedent basis. Applicant has amended the claims to overcome any antecedent issues, and it is therefore requested that the objection be withdrawn.

Rejections under 35 U.S.C. §102(e) and 35 U.S.C. §103(a)

Claims 1-6 were rejected under 35 U.S.C. §102(e) as being anticipated by Borella et al. U.S. Patent 6,643,259. Claims 7 and 8 were rejected under 35 U.S.C. §103 as being unpatentable over Borella in view of Ohyama et al, U.S. Patent 6,278,691.

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Borella describes a TCP congestion control process that is adapted to recognize whether data packets from an application are to be transferred across the data network at a constant bit rate. A congestion window for constant bit rate packets is increased to a maximum value, where the limiting value of the congestion window is the constant bit rate multiplied by the round trip delay time between a sending packet and receiving its acknowledgment. (Abstract and Column 11, Borella).

Ohayma describes, at column 5, lines 67 through column 6 lines 3 "... a congestion window is provided to control congestion, and anytime, TCP compares the receiver's window size (buffer size) with the congestion window size and uses the smaller window in transmission..." At column 5, lines 26-28, Ohmaya states that the window is 'a fixed length sliding window...the sender is allowed to transmit 8 packets before an acknowledgement is received. After the sender receives an acknowledgement, the sender slides the window and sends another packet..."

With regard to the rejection under 35 U.S.C. §102, Applicants note that the limitations of claim 7, describing the nature of the determination of the window size, have been included in independent claims 1, 4 and 6. Since the Examiner admits, at page 5 of the office action, that Borella neither describes or suggests such a limitation, Applicant respectfully submits that this rejection is overcome and should be withdrawn.

With regard to the rejection under 35 U.S.C. §103, Applicant's note that the combination of references fails to teach or describe every limitation of the claims, including "...wherein the

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desired fixed bandwidth is the lesser of a current amount of unacknowledged traffic emitted by the sender into the network at a time of detection of the congestion condition, and a current receiver buffer size at that time..." Rather, Ohmaya describes only that 'TCP compares the receiver's window size (buffer size) with the congestion window size and uses the smaller in transmission" wherein the congestion window size is 'a fixed length window'. Borella describes only that "... the limiting value of the congestion window is the constant bit rate multiplied by the round trip delay..." Thus, because the combination neither describes nor suggests the limitations of the claims, it is respectfully requested that the rejection be withdrawn.

In addition, it is noted that in order to support a rejection under 35 U.S.C. §103, a motivation for modifying the references should be shown or suggested in the art. The Examiner states "... it would have been obvious to an ordinary person of skill in the art at the time the invention was made to prevent the overflowing of Borella's receiver buffer using the congestion window method taught by Ohyama so that in addition to receiving new traffic at a congested phase of Borella, measures would be taken to implement bandwidth optimization. The benefit would be less congestion due to the receiver buffer congestion eliminations..."

Applicants do not understand the motivation put forth by the Examiner, but do note that Ohyama describes only the use of the TCP protocol. In addition, Borella teaches that for constant bit rate transmissions, "TCP will not perform well in CBR environments. In particular, TCP's window probing and round-trip delay estimation processes cause TCP to artificially limit throughput on CBR channels" (See Borella, column 1, lines 37-41). Such explicit teaching of the undesirability of incorporating TCP concepts into Borella cannot be ignored. Therefore, because

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no sufficient motivation can be found for the combination suggested by the Examiner, the rejection fails to satisfy the requirements of a *prima facie* obvious rejection, and therefore the rejection should be withdrawn.

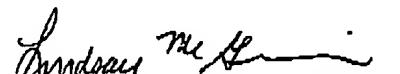
Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned, Applicants' Attorney at 978-264-6664 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

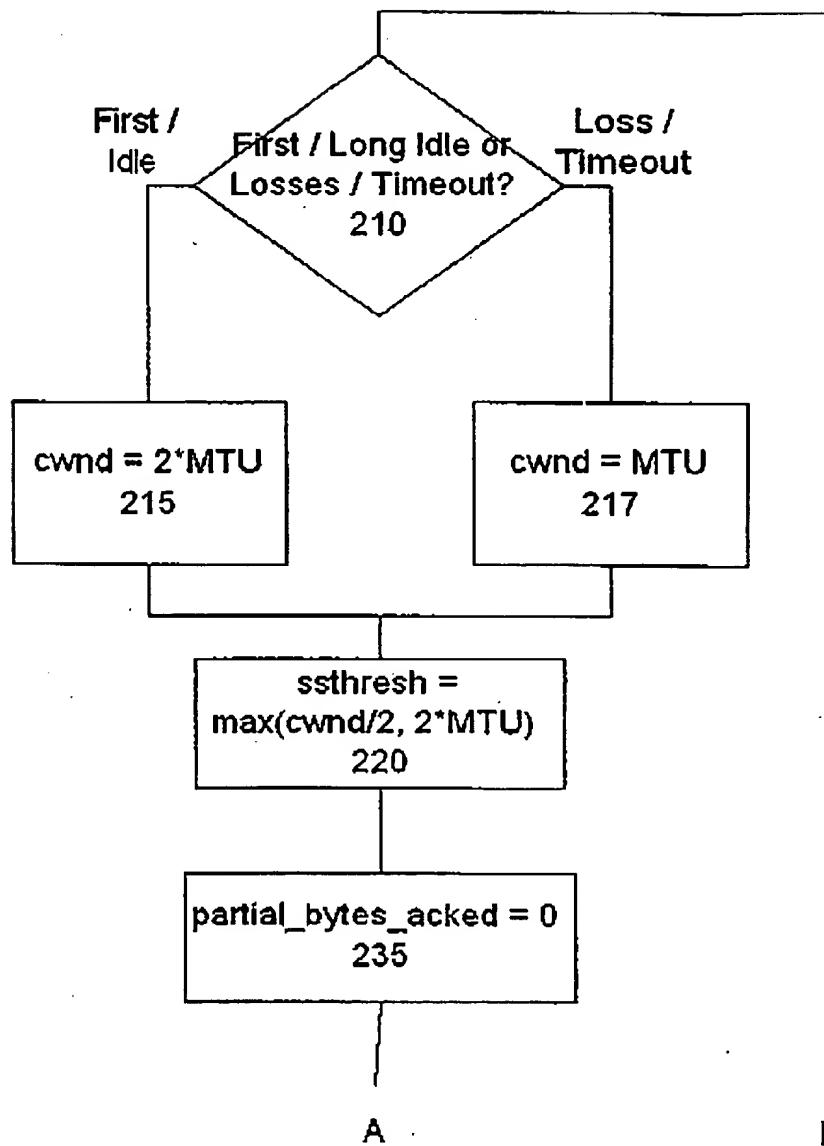
Oct. 11, 2004

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PRIOR ART

FIG. 1A

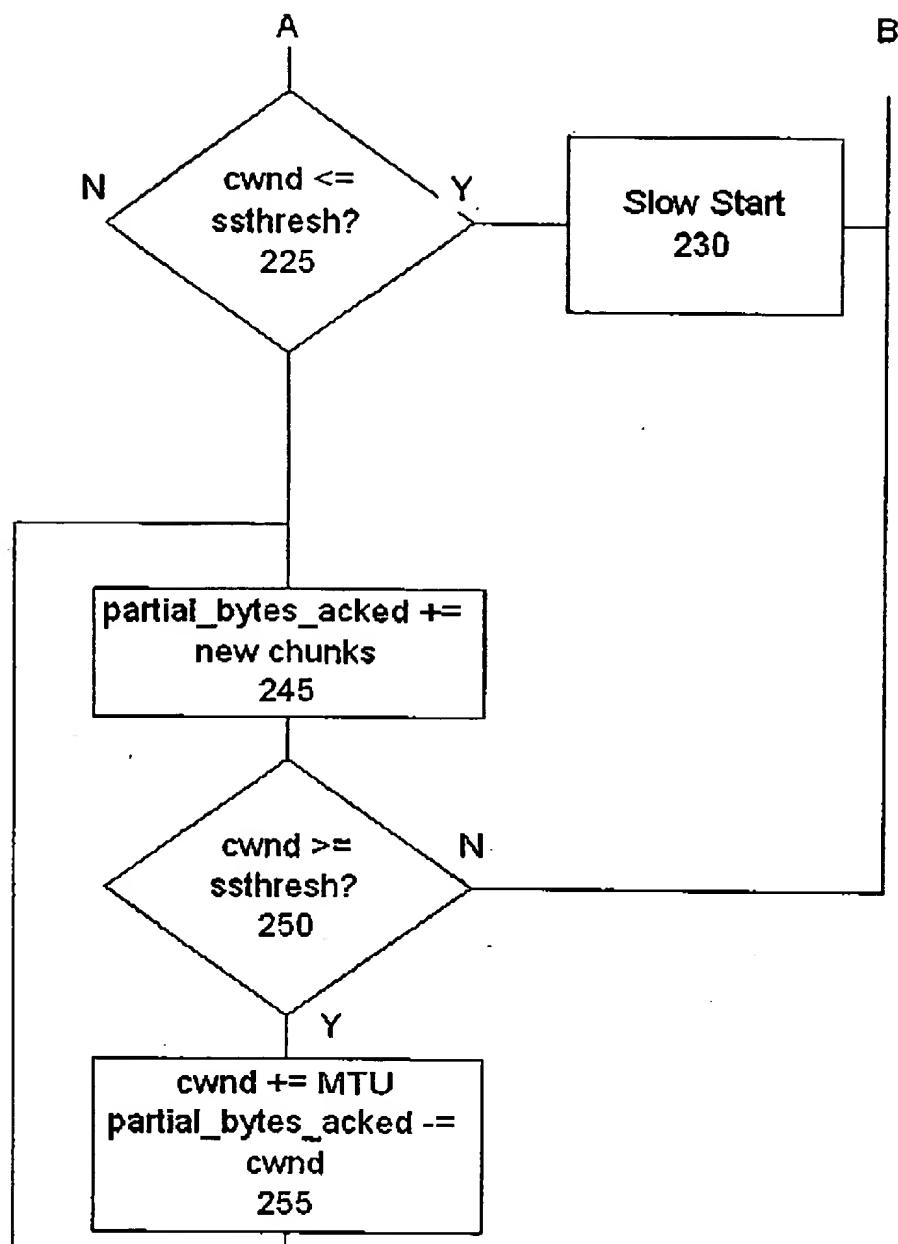


FIG. 1B

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